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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,687	12/14/2001	Joseph Robert Cleveland	SAMS01-00169	2991

7590 09/21/2005

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER	
KHOO, FOONG LIN	
ART UNIT	**PAPER NUMBER**
2664	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/024,687	CLEVELAND ET AL.	
	Examiner	Art Unit	
	F. Lin Khoo	2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *19-36* is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20050907*.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Felix et al (U.S. Patent No. 5,966,384).

Regarding Claim 1, Felix et al. discloses an apparatus capable for use in a wireless network communications system comprising at least one base station and at least one mobile station, an apparatus for increasing a data transmission rate in a mobile wireless communication channel, said apparatus comprising: a base station that is capable of sending data packets to a mobile station on a supplemental channel at a first data rate, and capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data

packet, and capable of sending at least one replacement data packet to said mobile station on said supplemental channel at a second higher data rate (Fig. 1, element 100 (base station), element 105 (supplemental channel circuitry (Fig. 3)); col 3, lines 15-25, col 4, lines 42-54; Fig. 6, steps 501, 503, 505, 509 and 515. The base station together with the supplemental channel circuitry is capable of sending data packets to a mobile station on a supplemental channel at a first data rate, and capable of receiving a negative acknowledgment signal from mobile station that mobile station failed to correctly receive at least one data packet, and capable of sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate); and a mobile station comprising a replacement data packet controller capable of receiving said at least one replacement data packet from said base station and incorporating said at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet (Fig. 1, remote unit (element 113) is the same as mobile station capable of receiving at least one replacement data packet from base station and incorporating at least one replacement data packet into a data packet stream to replace one of a missing data packet and an error data packet).

Regarding Claim 2, Felix et al. discloses wherein said mobile station is further capable of sending an acknowledgment signal to said base station that said mobile station has received said at least one replacement data packet from said base station and wherein in response to receiving said acknowledgment signal said base station is

further capable of ceasing sending said at least one replacement data packet on said supplemental channel at said second higher data rate, and is further capable of sending data packets to said mobile station on said supplemental channel at said first data rate (The remote unit (mobile station) as disclosed in Fig.1 is capable of sending an acknowledgment signal to base station (Fig.1) that it has received at least one replacement data packet from said base station and wherein in response to receiving acknowledgment signal the base station is further capable of ceasing sending at least one replacement data packet on supplemental channel at second higher data rate, and is further capable of sending data packets to mobile station on supplemental channel at first data rate. See Fig. 6 steps 517, 521 and 527 indicate the ceasing of transmission of supplemental channel upon receiving last frames sent and reverting back to the first rate (first spreading code) for retransmission of normal data).

Regarding Claim 3, Felix et al. discloses wherein said replacement data packet controller of said mobile station comprises: a main controller; a replacement data packet acquisition application executable by said main controller, said replacement data packet acquisition application capable of acquiring at least one replacement data packet from said base station; and a replacement data packet integration application executable by said main controller, said replacement data packet integration application capable of integrating said at least one replacement data packet from said base station into a data packet stream to replace one of: a missing data packet and an error data packet (The remote unit (mobile station) as disclosed in Fig.1 is capable of performing the functions

of a main controller, a replacement data packet acquisition application capable of acquiring at least one replacement data packet from the base station and a replacement data packet integration application capable of integrating at least one replacement data packet from the base station into a data packet stream to replace one of: a missing data packet and an error data packet).

Regarding Claim 4, Felix et al. discloses supplemental channel is seventy two kilobits per second and wherein said second higher data rate on said supplemental channel is greater than seventy two kilobits per second (The supplemental channel circuitry (Fig 1. element 105) is capable of transmitting at seventy two kilobits per second and higher).

Regarding Claim 5, Felix et al. discloses an apparatus capable for use in a wireless network communications system comprising at least one base station and at least one mobile station, an apparatus for increasing a data transmission rate in a mobile wireless communication channel, said apparatus comprising: a base station that is capable of sending data packets to a mobile station on a fundamental channel at a first data rate, and capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet, and capable of sending at least one replacement data packet to said mobile station on a supplemental channel at a second higher data rate (Fig. 1, element 100 (base station), element 103 (fundamental channel circuitry (Fig. 2), element 105

(supplemental channel circuitry (Fig. 3)); col 3, lines 15-25, col 4, lines 42-54; Fig. 6, steps 501, 503, 505, 509 and 515. The base station together with the fundamental channel circuitry and the supplemental channel circuitry is capable of sending data packets to a mobile station on a fundamental channel at a first data rate, and capable of receiving a negative acknowledgment signal from said mobile station that mobile station failed to correctly receive at least one data packet, and capable of sending at least one replacement data packet to mobile station on a supplemental channel at a second higher data rate); and a mobile station comprising a replacement data packet controller capable of receiving said at least one replacement data packet from said base station and incorporating said at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet (Fig. 1, remote unit (element 113) is the same as mobile station capable of receiving at least one replacement data packet from base station and incorporating at least one replacement data packet into a data packet stream to replace one of a missing data packet and an error data packet).

Regarding Claim 6, Felix et al. discloses wherein said mobile station is further capable of sending an acknowledgment signal to said base station that said mobile station has received said at least one replacement data packet from said base station and wherein in response to receiving said acknowledgment signal said base station is further capable of ceasing sending said at least one replacement data packet on said supplemental channel at said second higher data rate, and is further capable of sending

data packets to said mobile station on said fundamental channel at said first data rate. (The remote unit (mobile station) as disclosed in Fig.1 is capable of sending an acknowledgment signal to base station (Fig.1) that it has received said at least one replacement data packet from said base station and wherein in response to receiving acknowledgment signal the base station is further capable of ceasing sending at least one replacement data packet on supplemental channel at second higher data rate, and is further capable of sending data packets to mobile station on fundamental channel at first data rate. See Fig. 6 steps 517, 521 and 527 indicate the ceasing of transmission of supplemental channel upon receiving last frames sent and reverting back to the first rate (first spreading code) for retransmission of normal data).

Regarding Claim 7, Felix et al. discloses wherein said replacement data packet controller of said mobile station comprises: a main controller; a replacement data packet acquisition application executable by said main controller, said replacement data packet acquisition application capable of acquiring at least one replacement data packet from said base station; and a replacement data packet integration application executable by said main controller, said replacement data packet integration application capable of integrating said at least one replacement data packet from said base station into a data packet stream to replace one of: a missing data packet and an error data packet (The remote unit (mobile station) as disclosed in Fig.1 is capable of performing the functions of a main controller, a replacement data packet acquisition application capable of acquiring at least one replacement data packet from the base station and a replacement

data packet integration application capable of integrating at least one replacement data packet from the base station into a data packet stream to replace one of: a missing data packet and an error data packet).

Regarding Claim 8, Felix et al. discloses wherein said first data rate on said fundamental channel is fourteen and one tenths kilobits per second and wherein said second higher data rate on said supplemental channel is greater than fourteen and one tenths kilobits per second (The fundament channel circuitry (Fig 1. element 103) is capable of transmitting at fourteen and one tenths kilobits per second and the supplemental channel circuitry (Fig 1. element 105) is capable of transmitting at greater than fourteen and one tenths kilobits per second).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9-15, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Felix et al (U.S. Patent No. 5,966,384) in view of Purnadi et al. (U.S. Patent No. 6,456,849).

Regarding Claim 9, Felix et al. discloses (i) a base station capable of sending data on a supplemental channel at a first rate and sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on supplemental channel at second higher data rate and sending data packets to said mobile station on said supplemental channel at said first data rate. Felix et al. does not disclose a first base station handing off to a second base station a transmission of data packets for a mobile station, wherein said apparatus comprising: a first base station that is capable of sending data packets to a second base station on a supplemental channel at a first data rate; wherein second base station is capable of sending said data packets to said mobile station on said supplemental channel at said first data rate; wherein said first base station is capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet from said second base station; wherein said first base station is capable of sending an A3 physical transition directive message to said second base station to cause said second base station to increase a bandwidth of said supplemental channel to said mobile station; wherein said first base station and said second base station are capable of sending at least one replacement data packet

to said mobile station on said increased bandwidth supplemental channel at a second higher data rate.

Purnadi et al. discloses the capability of a first base station handing off to a second base station a transmission of data packets for a mobile station, wherein said apparatus comprising: a first base station that is capable of sending data packets to a second base station on a supplemental channel at a first data rate; wherein second base station is capable of sending said data packets to said mobile station on said supplemental channel at said first data rate; wherein said first base station is capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet from said second base station; wherein said first base station is capable of sending an A3 physical transition directive message to said second base station to cause said second base station to increase a bandwidth of said supplemental channel to said mobile station; wherein said first base station and said second base station are capable of sending at least one replacement data packet to said mobile station on said increased bandwidth supplemental channel at a second higher data rate (Fig. 5 MS is a mobile station with BSSserving and BSSshared (plurality of base stations) performing a handoff. In a shared mode during the handoff the communication resources are borrowed from the additional cell so that communication resources are combined from at least two cells to provide the communication resources to effectuate the communication service. In this mode, a portion of the communication service is provided at the serving cell and another portion of the communication service is provided at the additional cell. In Fig. 5

segments 166, 168 and 172 are the same as first base station capable of sending an A3 physical transition directive message to second base station to cause second base station to increase a bandwidth of supplemental channel to mobile station. See col 3, lines 37-58 and col 4, lines 17-43, col 9, lines 41-53).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 10, Felix et al. discloses (i) a base station capable of sending data on a supplemental channel at a first rate and sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on supplemental channel at second higher data rate and sending data packets to said mobile station on said supplemental channel at said first data rate. Felix et al. does not disclose wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an A3 physical transition directive message to said second base station to

cause said second base station to decrease said bandwidth of said supplemental channel to said mobile station.

Purnadi et al. discloses the capability of a first base station handing off to a second base station a transmission of data packets for a mobile station, wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an A3 physical transition directive message to said second base station to cause said second base station to decrease said bandwidth of said supplemental channel to said mobile station (Fig 5, segments 182 and 184; col 9, lines 57-64. The segment 184 is the same as sending an A3 physical transition directive message to second base station to cause second base station to decrease the bandwidth of supplemental channel to mobile station).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 11, Felix et al. discloses wherein said replacement data packet controller of said mobile station comprises: a main controller; a replacement data packet acquisition application executable by said main controller, said replacement data packet acquisition application capable of acquiring at least one replacement data packet from a base station; and a replacement data packet integration application executable by said main controller, said replacement data packet integration application capable of

integrating said at least one replacement data packet from said base station into a data packet stream to replace one of: a missing data packet and an error data packet (The remote unit (mobile station) as disclosed in Fig.1 is capable of performing the functions of a main controller, a replacement data packet acquisition application capable of acquiring at least one replacement data packet from the base station and a replacement data packet integration application capable of integrating at least one replacement data packet from the base station into a data packet stream to replace one of: a missing data packet and an error data packet).

Regarding Claim 12, Felix et al. discloses (i) a base station capable of sending data on a second supplemental channel at a first rate and sending at least one replacement data packet to mobile station on second supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on second supplemental channel at second higher data rate and sending data packets to said mobile station on said second supplemental channel at said first data rate. Felix et al. does not disclose wherein said first base station is capable of sending an IS-2000 message to said

second base station to cause said second base station to activate a second supplemental channel to said mobile station

Purnadi et al. discloses wherein said first base station is capable of sending an IS-2000 message to said second base station to cause said second base station to activate a second supplemental channel to said mobile station (Fig. 5, segments 166,168 and 172. In a shared mode during the handoff the communication resources are borrowed from the additional cell so that communication resources are combined from at least two cells to provide the communication resources to effectuate the communication service. In this mode, a portion of the communication service is provided at the serving cell and another portion of the communication service is provided at the additional cell. In Fig. 5 segments 166, 168 and 172 are the same as first base station capable of sending an IS-2000 message to second base station to cause second base station to increase to activate a second supplemental channel to said mobile station. See col 3, lines 37-58 and col 4, lines 17-43, col 9, lines 41-53).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 13, Felix et al. discloses (i) a base station capable of sending data on a second supplemental channel at a first rate and sending at least one replacement data packet to mobile station on second supplemental channel at a second

higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on second supplemental channel at second higher data rate and sending data packets to said mobile station on said second supplemental channel at said first data rate. Felix et al. does not disclose wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an IS-2000 message to said second base station to cause said second base station to deactivate said second supplemental channel to said mobile station.

Purnadi et al. discloses wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an IS-2000 message to said second base station to cause said second base station to deactivate said second supplemental channel to said mobile station (Fig 5, segments 182 and 184; col 9, lines 57-64. The segment 184 is the same as sending an IS-2000 message to second base station to cause second base station to deactivate second supplemental channel to mobile station).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the

system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 14, Felix et al. discloses (i) a base station capable of sending data on a supplemental channel at a first rate and sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on supplemental channel at second higher data rate and sending data packets to said mobile station on said supplemental channel at said first data rate. Felix et al. does not disclose wherein said A3 physical transition directive message contains information comprising one of: an element identifier, a length, a data rate, and an action time.

Purnadi et al. discloses said A3 physical transition directive message contains information comprising one of: an element identifier, a length, a data rate, and an action time (Fig. 5, segments 166 and 184 are A3 physical transition directive message capable of containing information comprising one of: an element identifier, a length, a data rate, and an action time).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 15, Felix et al. discloses wherein said first data rate on said supplemental channel is seventy two kilobits per second and wherein said second higher data rate on said increased bandwidth supplemental channel is greater than seventy two kilobits per second (The supplemental channel circuitry (Fig 1. element 105) is capable of transmitting at seventy two kilobits per second and higher).

Regarding Claim 16, Felix et al. discloses (i) a base station capable of sending data on a fundamental channel at a first rate and sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on supplemental channel at second higher data rate and sending data packets to said mobile station on said fundamental channel at said first data rate. Felix et al. does not disclose a first base station handing off to a second base

station a transmission of data packets for a mobile station, said apparatus comprising: a first base station that is capable of sending data packets to a second base station on a fundamental channel at a first data rate; wherein second base station is capable of sending said data packets to said mobile station on said fundamental channel at said first data rate; wherein said first base station is capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet from said second base station; wherein said first base station is capable of sending an IS-2000 message to said second base station to cause said second base station to activate a supplemental channel to said mobile station; wherein said first base station and said second base station are capable of sending at least one replacement data packet to said mobile station on said supplemental channel at a second higher data rate.

Purnadi et al. discloses the capability of a first base station handing off to a second base station a transmission of data packets for a mobile station, said apparatus comprising: a first base station that is capable of sending data packets to a second base station on a fundamental channel at a first data rate; wherein second base station is capable of sending said data packets to said mobile station on said fundamental channel at said first data rate; wherein said first base station is capable of receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet from said second base station; wherein said first base station is capable of sending an IS-2000 message to said second base station to cause said second base station to activate a supplemental channel to said

mobile station; wherein said first base station and said second base station are capable of sending at least one replacement data packet to said mobile station on said supplemental channel at a second higher data rate (Fig. 5 MS is a mobile station with BSSserving and BSSshared (plurality of base stations) performing a handoff. In a shared mode during the handoff the communication resources are borrowed from the additional cell so that communication resources are combined from at least two cells to provide the communication resources to effectuate the communication service. In this mode, a portion of the communication service is provided at the serving cell and another portion of the communication service is provided at the additional cell. In Fig. 5 segments 166, 168 and 172 are the same as first base station capable of sending an IS-2000 message to second base station to cause second base station to increase a bandwidth of supplemental channel to mobile station. See col 3, lines 37-58 and col 4, lines 17-43, col 9, lines 41-53).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 17, Felix et al. discloses (i) a base station capable of sending data on a fundamental channel at a first rate and sending at least one replacement data packet to mobile station on supplemental channel at a second higher data rate (ii) a remote unit capable of receiving at least one replacement data packet and incorporating

at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet, (iii) a mobile station capable of sending an acknowledgment signal to base station that mobile station has received at least one replacement data packet (iv) a base station capable of ceasing to send at least one replacement data packet on supplemental channel at second higher data rate and sending data packets to said mobile station on said fundamental channel at said first data rate. Felix et al. does not disclose wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an IS-2000 message to said second base station to cause said second base station to deactivate said supplemental channel to said mobile station.

Purnadi et al. discloses wherein in response to receiving said acknowledgment signal from said mobile station said first base station is further capable of sending an IS-2000 message to said second base station to cause said second base station to deactivate said supplemental channel to said mobile station. (Fig 5, segments 182 and 184; col 9, lines 57-64. The segment 184 is the same as sending an IS-2000 message to second base station to cause second base station to deactivate supplemental channel to mobile station).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use the handoff technique as taught by Purnadi et al. with the system of Felix et al. for allocating communication resources to effectuate a communication service at a selected quality level (col. 1, lines 18-24).

Regarding Claim 18, Felix et al. discloses wherein said first data rate on said fundamental channel is fourteen and one tenths kilobits per second and wherein said second higher data rate on said supplemental channel is greater than fourteen and one tenths kilobits per second (The fundament channel circuitry (Fig 1. element 103) is capable of transmitting at fourteen and one tenths kilobits per second and the supplemental channel circuitry (Fig 1. element 105) is capable of transmitting at greater than fourteen and one tenths kilobits per second).

Allowable Subject Matter

6. Claims 19-22, 23-26, 27-33 and 34-36 are allowed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,940,769 to Nakajima et al. relates to a radio communication system for sending data from a transmitting station to a receiving station and communication for retransmission of data from the transmitting station to the receiving station according to the re-send request transmitted from the receiving station to the transmitting and further, the radio communication system has a high speed down-link channel and a low speed down-link channel, data to be transmitted from a base station to a terminal is classified into primary data and secondary data, the primary data is

transmitted by the high speed down-link channel, and the secondary data is transmitted by the low speed down-link channel.

U.S. Patent No. 6,907,005 to Dahlman et al. provides a flexible ARQ scheme where a communications channel is set up between a transmitter and a receiver using an ARQ parameter value selected in accordance with a trade-off between a desired performance or goal.

U.S. Patent No. 6,377,809 to Rezaiifar et al. discloses a channel structure utilizing two sets of physical channels, one for the forward link and another for the reverse link and fundamental channels are used to transmit voice traffic, data traffic, high speed data, and other overhead information, and supplemental channels are used to transmit high speed data.

U.S. Patent No. 6,507,572 to Kumar et al. relates to forward-link high-speed packet data services in CDMA systems in which the old primary base station sends a message to the new primary base station indicating a particular sequence number that identifies the remaining packets of forward-link data queued at the old primary base station and the new primary base station then sends a message to the frame selection distribution function requesting transmission of those packets of forward-link data corresponding to the particular sequence number.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Lin Khoo whose telephone number is 571-272-5508. The examiner can normally be reached on flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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